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## State of New Jersey

Department of Environmental Protection

James E. McGreevey  
GovernorBradley M. Campbell  
CommissionerLand Use Regulation Program  
P. O. Box 439, Trenton, NJ 08625-0439  
Fax # (609) 777-3656  
[www.state.nj.us/dep/landuse](http://www.state.nj.us/dep/landuse)John Campi  
NJDOT  
P.O. Box 600  
Trenton, NJ 08625

JAN 17 2003

RE: Transition Area Waiver for Special Activities-Linear Development  
File No.: 1103-02- 0002.1FWW0200001  
Applicant: NJDOT  
Project: Route 295 Hamilton Noise Walls  
Hamilton Township, Mercer County

Dear Mr. Campi:

This letter is in response to your request for a special activity transition area waiver to modify the standard transition area on the above referenced property for the construction of six (6) noise barriers along northbound and southbound Interstate 295 in the area of Nottingham Way and Hamilton Avenue (Interchange 63) pursuant to N.J.A.C. 7:7A-7.4(a)2.

The Land Use Regulation Program has determined that the freshwater wetlands present on or adjacent to the above referenced property are of intermediate resource value. Pursuant to N.J.A.C. 7:7A-6, a standard transition area of 50 feet is required adjacent to these wetlands. The submitted plan proposes to modify this standard transition area through the means of a special activity transition area waiver.

Section 7:7A-7 of the Freshwater Wetlands Protection Act Rules establishes the framework under which the standard transition area may be modified if the Department determines that the modification will result in minimal environmental impact and that the modified transition area will continue to serve the purposes and functions set forth in N.J.A.C. 7:7A-6.1(a) and (b). In addition, the Department may only grant a waiver for construction of a linear development in a transition area if it is determined that there is no feasible alternative location for the linear development pursuant to N.J.A.C. 7:7A-7.4(c).

Based upon a review of the submitted information, the Department has determined that there is no feasible alternative location for the linear development. As a result, the Department approves of the proposed modified transition area boundary line as shown on the plan map entitled: "Wetland Transition Area Plans, Route 295 Noise Walls (TA-1 - TA-7)", dated October 8, 2002, unrevised and prepared by New Jersey Department of Transportation.

## Waiver Conditions

In addition to the standard conditions set forth in section 7:7A-7, the following special conditions must be met for the activity authorized under this transition area waiver:

1. The transition area shall not be reduced to less than 20 feet in width as shown on the referenced plan.
2. The permanent disturbance of the transition area shall be limited to 2,178 square feet (.050 acres) of surface area as shown on the referenced plan. The temporary disturbance of the transition area shall be limited to 7,056 square feet (.162 acres) as shown on the referenced plan
3. All disturbed areas shall be planted with a mixture of warm and cool seasonal grasses, containing at least 20% warm season grasses. The use of one of these mixtures will permanently stabilize the soil and enhance the environment.
4. The applicant shall be responsible for preserving and minimizing vegetative disturbances within wetlands, transition areas and along the steams. All temporary disturbances shall be replanted and not be maintained as a lawn or landscaped area.
5. Prior to any construction on site, the applicant/owner shall install a silt fence at the limits of the herein-modified transition area.
6. Any additional prohibited activities conducted within the standard transition area on-site shall require a separate transition area waiver from the Program. Prohibited activities within a transition area are defined at N.J.A.C. 7:7A-6.2(a).

Failure to comply with these conditions shall constitute a violation of the Freshwater Wetlands Protection Act (N.J.S.A. 13:9B-1 et seq.).

The freshwater wetlands and transition area boundary line, as determined in this letter must be shown on any future site development plans. The line(s) should be labeled with the above file number and the following note:

"Freshwater Wetlands/Transition Area Boundary line as approved by NJDEP"

This determination does not affect your responsibility to obtain any local, State, or Federal permits, which may be required. You are entitled to rely upon this waiver/boundary determination for a period of five years from the date of this letter pursuant to the Freshwater Wetlands Protection Act Rules, N.J.A.C. 7:7A-7.

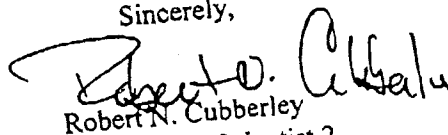
## Appeal of Decision

In accordance with N.J.A.C. 7:7A-12.7, any person who is aggrieved by this decision may request a hearing within 30 days of the decision date by writing to: New Jersey Department of Environmental Protection, Office of Legal Affairs, Attention: Adjudicatory Hearing Requests,

CN 402, Trenton, NJ 08625-0402. This request must include a completed copy of the Administrative Hearing Request Checklist.

If you have any questions regarding this letter, please contact Charles Welch of my staff at (609) 292-8262 or by e-mail at [charlie.welch@dep.state.nj.us](mailto:charlie.welch@dep.state.nj.us). Be sure to indicate the Program's file number in any communication.

Sincerely,



Robert N. Cubberley  
Environmental Scientist 2  
Land Use Regulation Program

cw

c:

Hamilton Township Municipal Clerk  
Hamilton Township Municipal Construction Official